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AUTHOR Levy, Seymour; Linster, Charles A.

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ABSTRACT

Block grants have been defined as programs through which funds are provided to governmental units, such as state or local governments, based upon a statutory formula. They are usually provided for use in a defined, but broad, area and at the recipient's discretion. This document describes the historical development of these grants and the role of congressional, administrative, federal-state, and state-local relations in past and present performance of these programs. Additional definitions of block grants are outlined, and administrative goals and objectives for these programs are suggested. These funds are described as promoting economy and efficiency, program enlargements, decentralization, coordination, targeting, innovation, and control. The roles of the Law Enforcement Assistance Administration (LEAA), the Comprehensive Employment and Training Administration (CETA), the Community Development Block Grant Program, and Title XX (the 1974 Social Security Amendments) in providing block grants and assistance are highlighted. Evaluations of selected programs and relationships are presented. Charts are included. (JHP)

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THE FEDERAL BLOCK GRANT EXPERIENCE

Seymour Levy
Charles A. Linster
Rehabilitation Services Administration
U. S. Department of Education
Region V - Chicago, Illinois
April 1981

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INTRODUCTION

With the inauguration of the Reagan administration, there has been an increased interest in the concept of block grants. Those who are interested in this concept must ask, what is a block grant? This study answers that question, but to fully understand the definition, one must look at the history of this form of federal grant-in-aid. Not only does this study examine existing block grant programs, but also the conditions which led to their creation and implementation.

Federal grant-in-aid programs have always had controls and reporting requirements. Block grants are no exception to this rule. This study reveals the various accounting, financial, and programmatic controls of existing block grant programs. These controls are important in monitoring such programs and vary in their degrees of complexity.

Block grants do not exist in a vacuum. Congressional, Administrative, federal-state, and state-local relations have affected the development and present performance of these programs. Such relations will influence the future of this form of federal grant-in-aid.

Block grants have divided public powers between federal, state, and local governments. There are lessons to be learned in the federal block grant experience. Whether these lessons will be heeded is up to the Administration and Congress. These two branches of the federal government must ultimately decide whether this form of grant-in-aid equitably distributes public power and has a future role in American Federalism.

HISTORY

The precise relationship between the fifty American States which compose the Federal Union has yet to be defined because ours is a dynamic, not a static, republic. It can be said, however, that for the majority of time of our existence as a nation, the linchpin between the several states and the federal government was the Tenth Amendment to the Federal Constitution, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States are reserved to the States respectively ..." (1) To paraphrase the Bible, Americans rendered unto the States the things that were the States' and to the Feds the things that were the Feds'.

The relationship seemed to serve the country well until two Twentieth Century events, the Great Depression and World War II, upset the equation. The Great Depression was a disaster of such magnitude that state and local governments could not cope with its ramifications in areas traditionally reserved to these levels of government. The federal government in the form of the Roosevelt administration's "New Deal" programs intervened in these and other areas of government and forever changed the federal-state relationship, giving more power and responsibility to the former at the expense of the latter. An example of this intervention was the Social Security Act of 1935. "Prior to that time, responsibility for assisting people to obtain services and relief rested primarily with state and local government and with private charitable organizations. In addition to creating a federally

administered retirement program, the Social Security Act authorized federal grants-in-aid for state-run programs of maternal and child health, child welfare, and crippled-children's services and for income assistance to the aged, the blind, and children of families deprived of a male breadwinner." (2)

World War II helped to solidify this trend. The federal government, not the states, fought this war, levying the enormous tax burdens needed to finance it. After victory was achieved, Americans had grown used to large federal budgets, paying more and more of their taxes to the federal government and less to state and local entities.

There was no return to "normalcy" in the post-World War II America. Congress relied not so much on the Tenth Amendment but rather the Federal Constitution's "Elastic Clause" permitting it, "to make all laws...necessary and proper for carrying into execution the...power...vested...in the...United States...".(3) This national thrust to solve all problems; federal, state, and local, at the national level led to a proliferation of federal categorical programs. It also led to an erosion of the tax base and the public's faith in state and local government's ability to solve their own problems.

Because of this vast increase in Federal power and responsibility, Congress passed the "Executive Branch of Government Act of 1947" (P.L. 80-162). This Act established a "Commission on Organization of the Executive Branch of the Government...to promote economy, efficiency and improved service..." (4)

Better known as the First Hoover Commission, this body studied the concept of streamlining the federal government. In the field of federal-state relations, the Hoover Commission recommended that a "...System of grants be established based upon broad categories - such as highways, education, public assistance, and public health - as contrasted with the present system of extensive fragmentation...". (5) (Emphasis supplied). A second Hoover Commission reiterated this recommendation six years later. (6)

Congress also passed the "Commission on Inter-governmental Relations Act of 1953" (P.L. 83-109). This Act established a Commission to study and report to the Congress the relationships between the federal government and state and local governments. (7) Better known as the Kestnbaum Commission, its report to Congress took exception to the First and Second Hoover Commission Reports in the field of establishing categorical grants to the states. The Kestnbaum Report stated, in part, that, "Once it is decided that a grant-in-aid should be made, the grant should be carefully designed to achieve its specified objective. This requires careful attention to the shaping of apportionment formulas and matching requirements, the prescription of standards and conditions, and the provision for administrative machinery and procedures." (8) (Emphasis supplied.)

During the Eisenhower administration, several attempts were made to consolidate specialized categorical grants in the fields of health, public welfare, child health, vocational education,

and vocational rehabilitation into single broad authorization grants to the states to carry out said programs. These efforts failed because of fears that grant consolidation would result in reduced funding, loss of substantial Federal control over proposed grants to be consolidated, and a perception that certain national objectives would not be carried out. (9)

In 1959, Congress passed the "Advisory Commission on Intergovernmental Relations Act" (P.L. 86-380). This Act established a national bipartisan body representing the executive and legislative branches of federal, state, and local governments and the public at large. The Commission's major task was to monitor the operation of the American federal system and to recommend improvements. As a continuing body, the Commission was created to go beyond such bodies as the Hoover and Kestnbaum Commissions by addressing itself to specific issues and problems, the resolution of which would produce improved cooperation among all levels of government. The underlying purpose of the Commission was to strengthen the ability of the federal system to meet the problems of an increasingly complex society by promoting greater cooperation, understanding, and coordination of activities between the separate levels of government. (10)

The "New Frontier" of the Kennedy administration and President Johnson's "Great Society" programs of the 1960's saw a new proliferation of federal categorical grants passed by Congress in an attempt to cure the nation's ills at all levels. But the

federal government, "increasingly came to define the purposes for these grants not necessarily over the objection of the states, but often without any initiative from them." (11) So national remedies were proposed. "Literally hundreds of projects and formula-based categoricals were approved, (by Congress) and the overall amount of federal aid to states and local governments increased nearly fivefold." (12)

The coordination among these grants had been viewed almost exclusively as a federal governmental responsibility. "New mechanisms for coordinating the actions of the granting agencies were proposed at the national level." (13) In 1966, Congress passed what later came to be known as the "Partnership for Health Act." This Act was actually two federal laws, the "Comprehensive Health Planning and Public Health Services Amendments of 1966," (P.L. 89-749) (14) and the "Partnership for Health Amendments of 1967" (P.L. 90-174) (15). These laws consolidated seven existing formula grants awarded to states for combating specific diseases and public health problems into a flexible single grant to be awarded on a matching basis to assist in meeting public health needs identified through comprehensive planning. (16) They also consolidated and expanded nine categorical formula grant programs in the Public Health Services Act for research and demonstration relating to the provisions of health services. (17).

Before this consolidation, the federal government responded to health problems that came to national attention with a specific

grant directed at each emerging problem. One school of thought believed this was the best approach to demonstrate federal leadership in controlling health problems. New programs were preferred over the expansion of general health grants because it was felt that this approach highly targeted the impact of limited federal financial aid rather than spreading such aid thinly among many competing demands made by state and local health departments. It was also felt that a unified national approach in health services had a better chance of succeeding over a diluted state-by-state approach. (18)

The other school of thought believed that public health was intrinsically a function best handled at the state or local level. They believed that the categorical approach hampered the ability of local health officials to develop balanced health programs adapted to meet local needs. (19)

This dispute continued within the health care community until early 1966 when President Johnson advocated the goal of providing good health care for every citizen to the limits of our country's capacity to provide it. The President recommended a program of grants to enable states and localities to plan the better use of manpower, facilities, and financial resources for comprehensive health services. Categorical formula grants for specific diseases had led to an unnecessarily rigid approach to health problems, encouraging inefficiency, confusion, and failure to meet the needs of Americans. The Public Health Service of the U.S. Department of Health, Education, and Welfare was reorganized

and the "Partnership for Health Act" became law. Sixteen federal grants had been consolidated into two broad comprehensive public health service grants. The Act also established a system of state and areawide comprehensive health planning agencies. Basic administrative responsibilities were assigned to state health and mental health departments. A single state plan, requiring HEW approval, was mandated. The purpose of the grants was to support state health departments. Although local agencies were to provide services under these consolidated grants, the Act contained no "pass-through" of funds to such agencies. The final authorization for the Act was slightly more than the total of the prior categorical programs that had been consolidated. (20) But the Act did not resolve potentially conflicting state and federal priorities in the field of public health. The Partnership for Health Act is considered to be the first federal block grant. (21)

DEFINITIONS

In 1967, "the Advisory Commission on Intergovernmental Relations (ACIR) found that the (existing) grant-in-aid system lacked flexibility and needed overhauling. Although it concluded that categorical grants should be retained, the Commission recommended that a new 'federal aid mix' was needed, and urged the utilization of bloc(k) grants to consolidate categorical programs." (22)

The ACIR has defined a block grant as, "a program by which funds are provided chiefly to general purpose governmental units in accordance with a statutory formula for use in a broad functional area, largely at the recipient's discretion." (23)

The ACIR has further defined block grants by attributing five basic characteristics to them:

(1) Federal aid is authorized for a wide range of activities within a broadly defined functional area.

(2) Recipients have substantial discretion in identifying problems and designing programs and allocating resources to deal with them.

(3) Administrative, fiscal reporting, planning, and other federally imposed requirements are kept to the minimum amount necessary to ensure that national goals are being accomplished.

(4) Federal aid is distributed on the basis of a statutory formula, which results in a narrowing federal administrators' discretion and providing a sense of fiscal certainty to recipients.

(5) Eligibility provisions are statutorily specified and favor general purpose governmental units as recipients and elected officials and administrative generalists as decision makers." (24)

Block grants should not be confused with general revenue sharing. General revenue sharing came about through dissatisfaction with some forms of federal grants-in-aid of the "Great Society". During the early 1970's, the Nixon administration proposed changes in dispensing certain grants-in-aid. Known as the "New Federalism," certain federally-funded programs were to be implemented by elected officials in states, counties, and cities. To achieve this end, Congress passed "The State and Local Fiscal Assistance Act of 1972" (P.L. 92-512), better known as the Revenue Sharing Act. (25) Broadly stated, general revenue sharing allows for the distribution of funds by formula with few or no limits on the purposes for which they may be spent and few if any restrictions on the procedures by which they are spent. (26)

Block grants should also be differentiated from categorical grants. Categoricals are "grants that are intended for use only for the specific program for which the aid is extended and usually are limited to narrowly defined activities." (27)

ADMINISTRATIVE GOALS AND OBJECTIVES OF BLOCK GRANTS

In order to understand block grants, one must know not only the definition of block grants, but also have a knowledge of their administrative goals and objectives.

ADMINISTRATIVE GOALS

Four specific administrative goals can be identified with the block grant approach:

(1) Comprehensive planning and program development for broad functional areas. A major goal of the block grant is to promote comprehensive planning for functional fields and to allow the recipient governments flexibility in meeting the needs which they identify.

(2) Promotion of uncomplicated intergovernmental relationships. Block grants reduce the number of participants. Funds are channeled to fifty states rather than hundreds of state, local and private sources.

(3) Elimination of federal control and domination. This goal suggests the transfer of many administrative and review responsibilities from the federal government to state governments.

(4) State authority to allocate funds. This goal allows the state to make grant allocations to local governments as well as to private groups. (28)

OBJECTIVES OF BLOCK GRANTS

(1) Economy and efficiency. Block grant proponents argue that economy and efficiency would occur as a byproduct of the authorization of funds to be used in a broadly defined functional area rather than in several narrowly specified categories. For example, instead of authorizing individual grants for training, equipment purchases, research, and personnel compensation to each component of the system, a block grant would be established to aid the planning and implementation of a comprehensive program. State and local recipients would determine the mix of activities best suited to meeting their needs. The absence of specific categories would reduce the possibility of duplication among federal assistance programs serving similar functions or needs, even though they establish different intergovernmental, fiscal, programmatic, and jurisdictional relationships. Wide scope and structural simplicity would help lower administrative costs, because recipients would not have to spend substantial amounts of time identifying the agencies having funds available for which they might be eligible.

(2) Program enlargement. A second and quite different objective of the block grant is what has been called "improvement through enlargement". Although reformers may seek to realize greater economy and efficiency through the merger of related categoricals, the reduction of red tape, administrative costs

and overlapping responsibilities may not always be a totally convincing argument. Consolidation raises concerns among recipients about their future funding levels, even where the candidates for merger have relatively limited functional scope and small dollar amounts. As was evident during the 1950's the prospects for enactment are diminished if block grant proposals fail to provide certainty that present grantees will not be affected adversely in their previous funding levels. Such assurance normally is accomplished through distribution formulas that include prior funding levels and through hold-harmless provisions designed to gradually wean certain grantees from excessive dependence on federal aid. The net effect would be to raise appropriations above categorical program levels, as old functional and jurisdictional interests are accommodated and new directions are being charted.

(3) Decentralization. Under a block grant, recipients would be encouraged to identify and rank their problems, develop plans and programs to deal with them, allocate funds among the various activities called for by these plans and programs, and account for results. At a minimum, the role of the central and regional offices of the federal administering agency would involve promulgating regulations and guidelines, providing advice and assistance to recipients during the various stages of implementation, considering plans prepared by grantees, maintaining financial records, performing periodic audits, evaluating performance, and reporting to the President and the Congress on the achievement of national purposes.

(4) Coordination. Block grants have been viewed as having significant potential to achieve coordination. They are often considered as alternatives to categorical programs, many of which tend to accentuate specific programmatic, professional, or political interests. Block grants could eliminate federal intradepartmental coordinative problems arising from numerous categorical grants in the same functional area. Coordination of the activities of related recipient government agencies within a broadly defined functional terrain also could be achieved.

(5) Targeting. Some observers consider block grants to be a major method of targeting federal funds on jurisdictions having the greatest need. This purpose would occur by the authorizing legislation including a formula that "objectively" measures needs for the particular type of assistance-using population, income, unemployment, housing overcrowding, and other appropriate data. Whether these data are accurate indicators of need and can be made available in a timely fashion are critical concerns.

Targeting of funds also would take place as a result of the flexibility accorded to recipients by the block grant. Within the broad scope of federally-aided activities, recipients would have wide latitude in allocating funds to programs that are of high priority and in shifting monies among activities in response to changing conditions.

(6) Innovation. Another objective sought by some block grant proponents is innovation, i.e., recipients would use Federal

funds to launch activities that otherwise could not or would not be undertaken. This purpose reflects the belief that block grants should have a stimulative effect in addition to providing support for ongoing activities and relief from fiscal strain.

(7) Generalist Control. The block grant is sometimes associated with control of grant-in-aid decisionmaking by generalists-elected chief executive and legislative officials and administrative generalists. This is an important corollary to decentralization, because policy decisions would be made by those who presumably were more aware of and accountable to community interests. The intent would be to curb the pressures of the functional specialists and interest groups that have been generated over time by categorical aids and to restore the generalist to an authoritative position vis-a-vis the flow of federal funds into his jurisdiction. The basic point is that responsibility for interfunctional coordination and accountability for the results of federally-assisted programs would be on the shoulders of those who are directly elected by the people or those who are responsible to such officials. (29)

In eight years following the creation of the "Partnership for Health Act," Congress created four more federal block grant programs: the Law Enforcement Assistance Administration (LEAA), the Comprehensive Employment and Training Administration (CETA), the Community Development Block Grant Program (CDBG), and Title XX of the Social Security Act of 1935, as amended. Each one of these

block grant programs will be discussed separately. A British Block Grant, the "Transport Supplementary Grant" will also be discussed.

LEAA

The year 1968 had more than its share of political assassinations, urban civil disorders, and campus unrest. In response to this breach of law and order, Congress passed the "Omnibus Crime Control and Safe Streets Act of 1968" (P.L. 90-351). This law was enacted, "to assist state and local governments in reducing the incidence of crime, to increase the effectiveness, fairness, and coordination of law enforcement and criminal justice systems at all levels of government, and for other purposes." (30)

To carry out this mandate, the Law Enforcement Assistance Administration (LEAA) was established. The purpose of the LEAA is to assist state and local governments in strengthening and improving law enforcement and criminal justice at every level by providing national assistance. This assistance provided by the LEAA is primarily in the form of block grants to the fifty states, the District of Columbia, American Samoa, Guam, Puerto Rico, the Virgin Islands, the Trust Territories of the Pacific, and the Mariana Islands. (31) It was the first federal program designed to operate as a block grant from its outset rather than a consolidation of previously separate categorical programs. (32)

The program allocated federal assistance to the states while permitting each state to develop programs in accordance with state and local needs. The block grants are awarded to each state when it establishes and operates a State Planning Agency (SPA) for law enforcement and criminal justice. This SPA prepares, develops, and revises an annual comprehensive statewide plan for the improvement of law enforcement and criminal justice throughout the state. The plan sets forth the programs, projects, and priorities developed by the SPA in conjunction with regional and/or local planning units within the state. The state plans are then submitted to the LEAA for approval. If the plan is approved, LEAA awards the state a block action grant to implement the program.

The LEAA may also award discretionary action grants to states and/or units of local government or private, non-profit organizations pursuant to law, regulation, and/or guidelines established by the LEAA. Other LEAA programs include but are not limited to providing assistance for training, education, research, and development to improve law enforcement and criminal justice, to develop new methods for the prevention and reduction of crime, to make grants for the construction, acquisition and renovation of correctional institutions, and similar purposes. (33)

The LEAA's enabling legislation has been amended six times by the "Omnibus Crime Control Act of 1970" (P.L. 91-644), the "Crime

Control Act of 1973" (P.L. 93-83), the "Juvenile Justice and Delinquency Prevention Act of 1974" (P.L. 93-415), the "Public Safety Officers' Benefit Act of 1976" (P.L. 94-430), the "Crime Control Act of 1976" (P.L. 94- 503), and the "Justice System Improvement Act of 1979" (P.L. 96-157). This legislation has been codified at 42 U.S.C. 3701 et. seq. and 42 U.S.C. 5601 note.

The regulations which further define the law can be found at 28 CFR Parts 18 and 30. The LEAA has promulgated guidelines to further define these regulations. An example of their complexity can be seen in the allocation and required reports of the program.

ALLOCATION OF LAW ENFORCEMENT ASSISTANCE ADMINISTRATION FUNDS (PART C)

Eighty-five percent of the funds are distributed to the states on the basis of population. The remaining 15% of the Part C appropriation comprises a discretionary fund. Discretionary funds have supported a wide variety of undertakings. In the case of the judiciary and high-crime local jurisdiction, there is some evidence that these monies have been used to fill gaps in block grant awards. (34)

As originally enacted, LEAA recipients had to match the federal funds that they received. Varying formulas were set forth in the Act. For the planning programs, the federal share was 90 percent. For most police, courts and corrections programs, the federal share was 60 percent. For organized crime and

disorders programs, the federal share was 75 percent. For construction projects, the federal share was 50 percent.

In 1971, the Congress authorized federal funds to be used to cover up to 90% of the costs of correctional programs for Part E grants. Two years later, Congress raised the federal share for Part C grants to 90% with the exception of construction, which remained at the 50% level.

The matching requirement is not the only provision that limits recipient discretion over funding. Another limitation is that personnel compensation is not to exceed one-third of project costs. This is a measure designed to avoid dependence on federal dollars for salary support. (35)

REQUIRED REPORTS UNDER LEAA

(1) State Comprehensive Plan. This is an annual report submitted to the Law Enforcement Assistance Administration. The State Comprehensive Plan provides a description of existing law enforcement, criminal justice and juvenile justice systems, and a description of existing resources available to support these systems. It describes in specific terms the methods and procedures to be used to assure regional and local development of the comprehensive plan. It also describes in general terms the plan implementation process and strategy.

(2) Three year Comprehensive Budget Report. The multi-year forecast sets forth what progress the states expect to make toward

goal achievements in the next three years. The multi-year budget describes the estimated cost of these accomplishments. The Multi-year budget is treated as an estimate and a guide for resource needs and resource allocations for the future.

(3) Financial Reports. According to U.S. Department of Justice Manual, Section 4100.1 E, State Planning Agencies (SPA) shall submit such financial reports as may be required on forms approved by OMB and prescribed by LEAA. Financial data is currently being reported on the OMB H-1 form.

A concern frequently expressed by SPA's relates to the financial reporting procedures and amount of paper work required by LEAA, which overloads their staff and leaves little time for genuine planning. As a result, the reports have become, in the view of some states, a compliance document, rather than instruments for systematically addressing present and future state and local crime reduction needs. (36)

CETA

One of the federal government's first manpower programs was the "Smith-Fess Act of 1920" (41 Stat. 735) which created the Vocational Rehabilitation Administration. This legislation was followed up by other manpower programs such as the "United States Employment Service in 1933," the "GI Bill of Rights in 1944," the "Employment Act of 1949," and the "National Defense Education Act of 1958."

During the 1960's, federal manpower outlays increased sevenfold, largely because of three pieces of legislation: the "Area Redevelopment Act of 1961" (P.L. 87-27), The "Manpower Development and Training Act of 1962" (P.L. 87-415), and the "Economic Opportunity Act of 1964" (P.L. 88-452). (37)

At first there was little concern about the duplication, overlapping, and proliferation among the sponsors of these manpower efforts. However, the Nixon administration's emphasis for decentralizing social programs was bound to affect manpower efforts. If such programs were to be transformed into a continuing effort to alleviate employment and training deficiencies, more local active control over and support of the manpower system was necessary to better adapt programs to local needs. One of the most effective and efficient ways of delivering manpower services locally was to consolidate various programs under a single sponsor who would be able to offer all the training, employment, and social services necessary to help fund sustained employment. (38)

In 1970, proposed legislation to achieve this end was passed by both Houses of Congress, but vetoed by President Nixon because it retained too many categorical programs and established a public employment program. (39) Three years later, the "Comprehensive Employment and Training Act of 1973" (P.L. 93-203) became law. The Act was passed to assure opportunities for employment and training to unemployed and underemployed persons. (40) Its first Title established a block grant through the consolidation of 17 categorical programs. The Act has been amended by the "Comprehensive Employment and Training Act of 1977" (P.L. 95-44) and the "Comprehensive Employment and Training Act Amendments of 1978" (P.L. 95-525).

The Comprehensive Employment and Training Administration (CETA) set up by the Act makes block grants to about 460 state and local units of government which serve as prime sponsors under law. Prime sponsors identify employment and training needs in their areas and plan and provide job training and other services required to meet those needs. The goal of CETA is to provide training and employment opportunities to increase the earned income of economically disadvantaged, unemployed, or underemployed persons. (41)

ALLOCATION OF CETA FUNDS (TITLE I)

Title I of the Act establishes a program of block grant assistance to state and local governments (prime sponsors) for comprehensive manpower services including training, employment, counseling, testing, placement, and supportive services. Cities and counties of 100,000 population or more, or combinations of local governments (consortia) in which one member meets this population floor, are eligible to be prime sponsors.

Eighty percent of the funds authorized under this title are distributed among prime sponsors in accordance with a three-factor formula: 50% of this amount is allotted based on relative amounts of previous manpower funding, 37.5% based on the relative number of unemployed persons, and 12.5% based on the relative number of low-income adults. Of the remaining 20 percent, five percent is set aside for vocational education grants, four percent is for state manpower services, and the remaining amounts constitute the Secretary's discretionary fund.

In FY 1975 (first year of the Act) prime sponsors were assured that they would receive not less than 90% of their funding level during the previous fiscal year. (42)

REQUIRED REPORTS UNDER CETA

Each prime sponsor shall submit five periodic reports which will be used by the Secretary to assess its performance in carrying out the objectives of the Act. Reports 1, 2, and 3 of this section shall be prepared to coincide with the ending dates of federal fiscal year quarters. These five reports are:

(1) The Program Status Summary.

(2) The Financial Status Report.

(3) The Quarterly Summary of Participant Characteristics.

(4) Annual CETA Program Activity Summary.

(5) Annual Report of Detailed Characteristics. (43)

Prime sponsors may, from time to time, be required to prepare and submit additional reports requested by the Department of Labor and other federal agencies for the performance of the legal responsibilities of these agencies. Detailed descriptions of the five reports are in the Forms Preparation Handbook. (44)

There are seven more Titles to the Act. Title II establishes programs administered by state and local prime sponsors to provide comprehensive employment and training services for economically disadvantaged persons; Title III establishes national programs administered by the Secretary of Labor; Title IV establishes a broad range of coordinated employment and training programs for youth; Title V establishes a National Commission for Employment Policy; Title VI authorizes temporary services in public service jobs during periods of high unemployment; Title VII authorizes activities to increase the involvement of the private sector in employment and training activities; and Title VIII establishes a Young Adult Conservation Corps. (45)

COMMUNITY DEVELOPMENT BLOCK GRANTS

Before the mid Twentieth Century, federal involvement in housing seemed to be limited to wartime necessity. During both World Wars, the United States government built housing to accommodate individuals working in war industries such as shipbuilding and munitions plants. After victory was won, federal funds were spent for veterans seeking housing. The Great Depression also forced Uncle Sam into the housing business in the form of mortgage insurance programs, rent subsidies, and public housing. (46)

However, the federal government didn't become involved in housing on a large-scale sustained basis until passage of the "Housing Act of 1949" (P.L. 81-171). For the first time, Congress stated a national housing goal by declaring, "the general welfare and security of the nation and the health and living standards of its people require housing production and related community development sufficient to remedy the serious housing shortage, the elimination of substandard...housing...and the realization...of a suitable living environment for every American family." (47) This Congressional goal was furthered by such legislation as the "Housing Act of 1954" (P.L. 83-560), the "Housing Act of 1961" (P.L. 87-70), the "Housing and Urban Development Act of 1965" (P.L. 89-117), which created a federal department to address this issue, and the "Demonstration Cities and the Metropolitan Act of 1966" (P.L. 89-754).

With the passage of the "Housing and Urban Development Act of 1968" (P.L. 90-448), it had become apparent that the categorical approach of Federal aid in housing was reaching its limits. Future national legislation for this purpose would have to be better coordinated and consolidated. (48)

In his State of the Union Address for 1971, President Nixon proposed a special revenue-sharing program which would consolidate 130 categorical programs into six broad-purpose packages to be provided to state and local governments with few requirements and no mandatory matching funds. One of these six categories was housing. Two months later, the President proposed a specific plan for special revenue-sharing for urban community development. The Democratic Congress, however, favored a program which had sufficient federal controls to guarantee that national objectives which had been established in housing and community development since 1949 would be continued. This less flexible approach was referred to as a block grant. (49) The compromise between the White House and Capitol Hill became known as the "Housing and Community Development Act of 1974" (P.L. 93-383)," an Act to establish a program of Community Development Block Grants." (50) The Act was amended by the "Housing and Community Development Act of 1977" (P.L. 95-128) and the "Housing and Community Development Amendments of 1978" (P.L. 95-557).

With the creation of the Community Development Block Grant Program (CDBG), seven federal categorical grants-in-aid programs (Urban Renewal, Model Cities, Water and Sewer Facilities, Open Space, Neighborhood Facilities, Rehabilitation Labs, and Public Facility Loans) were consolidated into one block grant. (51) Two major HUD programs, Section 312 (Rehabilitation Loans) and Section 701 (Comprehensive Planning and Management Assistance) were not folded into the block grant. Indeed, other non-HUD federal housing programs such as the U.S. Department of Agriculture's Farmer's Home Administration, the U.S. Commerce Department's Economic Development Administration, the Appalachian Regional Commission, and the Environmental Protection Agency were also not a part of the CDBG program. Suffice it to say that a substantial portion of federal housing aid is not a part of CDBG. (52)

The CDBG program differed from other federal block grant efforts because for the first time a block grant basic program bypassed the states and established a direct federal/local relationship. (53) The primary objective of Title I of the Act is the development of viable urban communities by providing decent housing and a suitable living environment and expanding economic opportunities, primarily for low-and moderate-income individuals. Specific objectives include: elimination of slums, an increase of the supply of low to moderate housing, elimination of unsafe conditions, conservation of existing housing, improved public services, national utilization of the land, and preservation of property with special value. (54)

ALLOCATION OF COMMUNITY DEVELOPMENT FUNDS

Community Development Block Grants are potentially available to states and units of local government of all sizes regardless of their designation under state law as cities, counties, or villages. However, the Act establishes categories of eligible applicants and treats them differently depending upon their size, their location, and their type of government. (55)

Eighty percent of the funds are allocated to metropolitan areas, while the remaining twenty percent are allocated to non-metropolitan areas. Within the metropolitan area category, three methods of allocation are provided: by formula, by a hold-harmless determination, and by discretionary grant. Within the non-metropolitan area category, there are only two methods: by discretionary grant and by hold-harmless determination.

The following factors are used in determining the basic grant amount of a metropolitan city under formula funding:

(1) The population of that metropolitan city and the population of all metropolitan areas.

(2) The extent of poverty in that metropolitan city and the extent of poverty in all metropolitan areas.

(3) The extent of housing overcrowding by units in that metropolitan city and the extent of housing overcrowding by units in all metropolitan areas.

(4) The extent of growth lag in that metropolitan city and the extent of growth lag in all metropolitan cities.

(5) The age of housing in that metropolitan city and the age of housing in all metropolitan areas. (56)

Hold-harmless funds are minimum fund allocations which are computed from the sum of the five-year average of all grants, loans, or advances received by the applicant under each of the consolidated programs over the preceding five fiscal years.

Discretionary grants are the final category of funding. They are available to states and to all units of local government which do not qualify for automatic entitlement. These funds are to be allocated on a competitive basis according to procedures and criteria established by HUD. Any funds not utilized by communities under the formula provisions will be reallocated to this funding pot. (57)

REQUIRED REPORTS UNDER COMMUNITY DEVELOPMENT

(1) General Reports. Recipients will submit such reports, including litigation reports, as the Secretary may require.

(2) Financial Management Reports. Each recipient shall submit such financial reports as are deemed necessary by the Secretary, consistent with the requirements of OMB Circular No. A-102.

(3) Relocation and Acquisition Reports. Recipients will report at least annually on a form prescribed by the Secretary, on numbers of persons and businesses relocated, numbers remaining in the relocation workload, and a general breakdown of relocation costs and real property acquired.

(4) Equal Opportunity Reports. Recipients shall submit such reports as may be necessary, pursuant to the rules and regulations under Title VI, Civil Rights Act of 1964; Title VIII, Civil Rights Act of 1968; Section 3 of the Housing and Urban Development Act of 1968; Section 109 of the Act, Executive Order 11246; and Executive Order 11063.

(5) Performance Reports. Each metropolitan city or urban county entitlement recipient which receives a subsequent entitlement grant shall submit a performance report to HUD which contains completed copies of all forms and narratives prescribed by the Secretary. (58)

FINANCIAL RECORDS TO BE MAINTAINED BY RECIPIENT

Recipients are to maintain records, in accordance with OMB Circular No. A-102, Attachment G, which identify adequately the source and application of funds for grant-supported activities. These records shall contain information pertaining to grant awards and authorizations, obligations, assets, liabilities, outlays, and income. (59)

State and local units of government, other than those receiving an entitlement grant, may apply for the metropolitan and non-metropolitan balance funds to carry out community development programs such as the Small Cities Program. Title I of the Act reserves three percent of the total funds for the Secretary of HUD to make discretionary grants for certain activities. Additional funds are available for grants to local units of government having urgent needs which cannot be met through the operation of the allocation provisions of the Act. These funds are used primarily to assist in the completion of the predecessor categorical programs, especially the urban renewal programs. (60)

TITLE XX

During the Kennedy and Johnson administrations, social service legislation for the aged, blind, disabled, and families on Aid to Families with Dependent Children was passed in the hope that providing such services to welfare recipients removes them from the welfare rolls. By the time of the Nixon administration, however, the financial control system for these programs was so poor that a number of states were utilizing the programs to fund services which traditionally had been funded primarily by state government. It was possible to do this because the services were paid out of open-ended Social Security funds. (61)

The Nixon administration first attempted to restrain such spending. In addition, strict limitations on the types of services which could be funded were proposed. Finally, the "Social Security Amendments of 1974" (P.L. 93-647), "an Act to amend the Social Security Act to establish a consolidated program of federal financial assistance to encourage provision of services to the states," was passed. (62) Known as Title XX, the program was considered to be a block grant because the federal government acknowledged that it did not know what services should be provided to the states in certain areas. It allows the states to decide this and gives them the money to design their own social service programs. (63) These state programs must address five goals: self-support, self-care, protective services for children and adults, the prevention or reduction of institutionalization, and providing institutional care when other types of care are not appropriate. (64)

Title XX is a consolidation of Title IV-A, "Aid to Families with Dependent Children" and Title VI, "Grants to States for Services to Aged, Blind, Or Disabled," of the Social Security Act of 1935, as amended. It has given the states greater control over these programs and has placed a financial cap on them. The law has been amended by the "National Graphite Suspended Duty" (P.L. 94-120), the "Social Security Act-Child Care Services" (P.L. 94-410), and the "Social Security Act Extension" (P.L. 95-171). It is administered by the U.S. Department of Health and Human Services' Office of Program Coordination and Review (OPCR).

ALLOCATION OF FUNDS UNDER TITLE XX

Funds are allocated to states on the basis of population. The allotment for each state is promulgated for each fiscal year by the the Secretary prior to the first day of the third month of the preceding fiscal year, on the basis of the population of each state and of all the states as determined on the basis of the most recent satisfactory data available from the Department of Commerce.

Title XX allows for federal financial participation at two matching rates:

(1) Seventy-five percent federal financial participation. The participation is available at the 75% rate for service costs, and for personnel training and retraining directly related to the provisions of services.

(2) Ninety percent federal financial participation. This participation is available at the 90% rate for costs of family planning services. (65)

REPORTING REQUIREMENTS UNDER TITLE XX

According to 45 CFR 228.17:

(a) Each state which participates in the program shall maintain or supervise the maintenance of records necessary for the proper and efficient operation of the program, including records regarding applications, determinations of eligibility, the provision of services, and administrative cost. Participants shall also maintain statistical, fiscal, and other records necessary for reporting and accountability required by the Secretary in accordance with 45 CFR Parts 201 and 205, and shall retain such records for such periods as prescribed by the Secretary.

(b) The state agency shall make such reports in such form and containing such information, as the Secrtary may from time to time require, and comply with such provisions as he finds necessary to assure the correctness and verification of such reports.

BRITISH TRANSPORT SYSTEM

Prior to 1974, the English used a series of grants to support their local transportation systems. By the early 1970's, this series of specific grants was seen to be producing an unsatisfactory result, and the need for reform was a common ground between the government and the House of Commons' Select Committee on Expenditure.

These specific grants seemed to be at odds with the comprehensive approach to transport planning which the government wished to encourage. To resolve this conflict, the specific grants were replaced by a block grant, the "Transport Supplementary Grant."

The aims of the new grant system as set out in the relevant Department Circular were:

(1) Promote the development and execution of comprehensive transportation plans.

(2) Eliminate bias towards capital or current expenditures, or towards particular forms of expenditure.

(3) Distribute central government grants in a way that reflects as far as possible the needs of individual areas.

(4) Reduce the degree of detailed supervision by central government.

In developing the new grant system, the original intention of government was to produce a financial framework within which sensible local transport planning could take place at a local level. Central government would be able to signal its approval or disapproval of the programs put to it, and would retain a small measure of control. In reality, however, there is strong central government control, which is due to an interventionist approach which presupposes that central government "knows best." Nevertheless, the new grant system is an improvement on what went before and remains a suitable environment for local transport planning. (66)

EVALUATION

Block grants mean differnt things to different people. Some have ignored the ACIR definition and called them unconditional grants from the federal government to state and/or local governments which can be used for any proper purposes in broad functional areas. (67) What, therefore, has been the federal block grant experience and what can be done to learn from it?

At present, over half the federal budget is devoted to assistance programs. The rate of growth of federal assistance over the past fifteen years has been dramatic. Assistance to state and local government has grown from 15 billion dollars in 1967 to over 88 billion dollars in 1980. Federal assistance has helped to create medical technologies that have saved millions of lives, a national system of airports and highways, and meaningful educational opportunities. Yet the fragmented way in which federal assistance has grown and now operates limits the federal government's ability to use assistance as an effective means of achieving national public purposes.

Federal assistance programs have long had problems in administration. Major efforts have been made to improve the financial and the administrative aspects of program management. But in the past fifteen years, federal assistance has so grown in total dollar value, in the variety of program purposes, in the number and types of recipients, and in the multiplicity of additional goals attached to the programs that the result is a higher order of complexity than ever existed before. While efficiency

and economy in managing individual programs remains a major goal for public administration, what is now required is a new federal capacity to reconcile differences and strengthen program management across the government.

Today, there are over 1,100 individual federal assistance programs or activities available to recipients as compared with 868 in 1970. This growth has been accompanied by an increase in the number and types of entities eligible to apply for assistance. The number of federal assistance programs would have been far greater had it not been for some major block grant consolidations. (68)

Block grants and revenue sharing, both general and special, were the backbone of what the Nixon administration called the "New Federalism." Supporters of the concept believed that power should be shifted away from Washington, D.C. to state and local elected officials because they could be held politically accountable and were "closer to the people." Decentralization would substantially improve the match of local programs with local needs and priorities. Opponents agreed on the need for untangling the "categorical mess" of overlapping and duplicative laws, but maintained that federally-managed laws insured high priority for the poor, minorities, and urban areas, and that state and local control would diminish concern for all three. (69)

The block grants eventually passed represented a different compromise between the "no strings" approach favored by the Nixon administration and most local officials, and the "tight and many strings " approach pushed by liberal Congressional Democrats.

Among these strings were general policy and administrative requirements called "cross-cutting" because they apply to assistance programs of more than one agency or department. Some of these cross-cutters include such legislation as Title VI of the Civil Rights Act of 1964, OSHA requirements, and Section 504 of the Rehabilitation Act of 1973. Over half of these requirements have been promulgated over the last ten years. (70)

One of the characteristics of a block grant is that administrative, fiscal reporting, planning, and other federally-established requirements are kept to a minimum. In reality, this may not be the case.

LEAA (Department of Justice)

Many of the strongest complaints about the block grant program by state, regional, and local officials center on the guidelines. They consider the guidelines to be restrictive, incomplete, repetitive, and overly detailed. A concern frequently expressed by the states relates to the financial reporting procedures and amount of paperwork required by LEAA. This paperwork overloads staff and leaves little time for genuine planning. (71)

After contacting the Chicago Regional Office of LEAA, it was discovered that their amount of paperwork has not been minimized by a block grant. The LEAA Block Grant involves as much paperwork for them as categorical grants. (72) (See Attachments 1-5).

CETA (Department of Labor)

During the first year of implementation, the Department of Labor (DOL) basically followed a revenue-sharing style of administration. Although relationships varied from region to region, generally speaking, DOL was far from intrusive. In fact, in some regions it was almost invisible.

Beginning with fiscal year 1976, a change took place. The Department of Labor became more active in its stewardship of the block grant program. Sponsors were required to report more frequently and to supply more information on their fiscal transactions, participant characteristics, placement rates and costs, and related matters. Public hearing and auditing procedures also were tightened, as were definitions of key terms in the Act. Some sponsors viewed these actions as the first sign of DOL's movement back toward a categorical mode of operations, which would soon be followed by substantive intervention and second-guessing. (73)

TITLE XX (Department of Health and Human Services)

After contacting the Chicago Regional Office of Program Coordination and Review (OPCR), which manages the federal aspects of Title XX, it was discovered that they have focused on the mechanical rather than the conceptual aspects of services provided by the states under the program. Instead of keeping the states focused on the five major goals of Title XX, OPCR has allowed the states to pursue activities which, while paying lip service to the program's five goals, can result in the states following their own goals, not

necessarily those of the program. An example of this occured when a state used Title XX funds as an administrative expense and called that expense a service. (74)

CDBG (Department of Housing and Urban Development)

Prior to the receipt of any funds, the CDBG (Community Development Block Grants) Program requires a detailed application, which must include the following:

(1) A summary plan of long range goals;

(2) An annual plan for specific proposed activities;

(3) A program relating local needs to national objectives;

(4) Certificates of compliance with a variety of federal statutes;

(5) A housing assistance plan. (75)

All this involves a great deal of work for the recipient of the block grant.

According to HUD personnel who were on staff when CDBG was first implemented, the CDBG of 1974 and of 1981 are very different. The CDBG of 1974 had few reporting requirements, while the CDBG of 1981 has many. In fact, according to HUD personnel, the CDBG of 1981 has more controls and paperwork than all the categorical grants it replaced combined. (76)

FEDERAL-STATE RELATIONSHIP

One of the administrative goals of block grants is the elimination of federal control and domination. Despite the increase in block grant funding, federal administrators have been reluctant to cut the strings that have been tied to federal grants over the years. One of the explanations for the reluctance of Congress and federal administrators to loosen controls over state and local actions is skepticism concerning state and local capacities to withstand pressures for tax reductions, debt retirement, and unwarranted subsidies to local interests. (77)

Another factor contributing to this federal reluctance is a distrust of state government. One close observer of development in state government argues that such a view, "ignores the essential revolution that has taken place in most state and local governments over the past fifteen years or so...Albeit in unequal measure, the states have replaced their constitutions, assigned more clear-cut authority to their governors, reorganized their executive structures, moved to more professional budgeting systems, and made their legislatures far more efficient and democratic." (78)

A certain amount of conflict between the federal government and the state is inevitable. This conflict is due to differing perspectives. From the standpoint of federal officials, special conditions and guidelines are merely devices to insure state compliance with legislative requirements. State officials view the program from a different perspective. They see passage of

the block grant program by Congress as an indication that they will be subject to fewer controls than under categorical grants. (79) This conflict can be illustrated by observing three block grant programs: LEAA, CETA, and CDBG.

The Law Enforcement Assistance Administration has been forced to contend with this federal-state conflict. Some state planning directors fear that LEAA desires for program information will lead to a loss of state flexibility and an increase in federal control. In response to a questionnaire on the LEAA Program, a few State Directors contended that the purpose of the block grant was to provide funds to the states to be spent according to their general plan, with few or no strings attached by LEAA.

Some of this concern may be justified. Federal block grant programs are intended to achieve certain national policies, and one of the goals of federal grant designers is to develop programs with the least likelihood of recipient subversion. An important question is whether or not the increased flexibility given to local jurisdictions by block grants has encouraged the recipient to subvert federal intentions. (80) A study of the Comprehensive Employment Training Administration and the Community Development Block Grant Program conducted by Dr. Catherine Lovell, of the University of California, Riverside, found that there was some evidence to indicate subversion. In each of the jurisdictions Professor Lovell studied, some CETA positions were being used to fund people who did not meet the income guidelines as strictly

interpreted. In other jurisdictions a portion of the CDBG funds was being used to pay for projects that were already planned in the jurisdiction's own capital budget. (81)

The extent and nature of a federal agency's powers is one of the basic issues in a block grant program. The question is whether the federal government or the states should have primary responsibility in insuring that the general purposes of the program are satisfied. There are strong tendencies on the part of federal agencies to exercise the power to establish and maintain national standards even under a block grant program. One reason for this tendency is found in Congressional behavior. (82)

The propensity of Congress to amend existing legislation clearly holds true for block grants. All five federal block grants have been amended at least once and some several times. This amending may be for purposes of closing loopholes in the original legislation or adding new programs to the block. However, any time a piece of legislation is amended, its original intent may be changed. Over the course of several amendments, the legislation may take on an entirely new appearance. (See Attachments 1-5).

Congress also puts pressure on federal administrators to review closely state and local activities. While Congress may demand a small federal staff because the federal role appears to be limited, it may at the same time require the federal agency to account for all funds spent at the state and local levels. (83)

An example of this review is illustrated in Attachments 6-8. In that case, a federal regional office checked into the legality of a state agency's proposed use of federal funds from a CDBG grant to be used to match a federal formula grant. Only after the federal regional office received a legal opinion from its regional attorney approving the states use of the federal funds, did the regional office approve the state grant. Even then, the regional office asked its central office to study the matter carefully to avoid inadvertently setting a bad precedent.

STATE-LOCAL RELATIONSHIP

In a block grant program, the position of the state vis-a-vis a city or county recipient is sometimes ambiguous and often controversial. The state may be expected to serve as planner, reviewer, coordinator, evaluator, or service deliverer. From the local vantage point, however, it may be an unwelcome partner - another layer of bureaucracy and red tape between the source of funds and the location of the problems. Where a federal-state block grant relationship prevails, for example, local governments may perceive no real difference from previous categorical programs, except that the state, rather than a federal agency, attaches strings to funds.

Many political factors explain the difficulties found in state-local relations:

(1) Malapportionment of legislatures.

(2) Debt management conflicts.

(3) Restrictive laws governing cities.

(4) State failure to give attention to urban problems. (84)

The lack of state assistance to cities in urban problem fields probably explains the negative opinion held by many cities toward state governments. Many states have been more oriented toward rural interests than toward those of urban areas. It must be remembered that the U.S. Supreme Court's "one man, one vote" doctrine, which forced many state legislatures to reapportion state and federal legislative districts according to population, was enunciated as late as 1962 in the case of Baker v. Carr (369 U.S. 186). Most urban block grants require state governments to administer federal programs to cities, an unfamiliar role for many state governments.

Cities and local forms of government may also be in an unfamiliar role to adequately administer federal block grants, with or without state expertise. One of the original intents of block grants was to shift from "grantsmanship," where the best-written grant usually received the funds, to a more equitable situation where the neediest cause was aided. This was especially true with the CDBG program. Theoretically, local officials should have received funds based upon overall community need, being free to define and shift target areas in which block grant funds were to be spent.

Not all forms of local government had the expertise to handle these funds according to the block grant formula. This situation led to a major decline in the amount of funds received by many communities lacking such expertise, along with large increases

in funds to communities with the ability to administer block grants. In order to ease the pain for the less sophisticated communities, the CDBG legislation included a "hold harmless" provision requiring that for the first three years, no community would receive less than it received under the previous categorical programs. In spite of this, however, some cities reverted to their categorical program guidelines when writing up their CDBG grants. (85)

The same can be said for certain CETA prime sponsors. Block grants may have appeared to simplify old federal manpower programs. However, because of the varying degrees of sophistication among prime sponsors, the programs have been run with varying results. "Perhaps federal categorical grants were not as far out of line as was hypothesized. Localities, at least on paper, appear concerned with nationally designated target groups - such as minorities, disadvantaged, and veterans." (86)

CONCLUSION

The federal grant-in-aid instrument known as the block grant means different things to different people. As stated in this study, a block grant is a program by which federal funds are provided chiefly to general purpose governmental units in accordance with a statutory formula for use in a broad functional area, at the recipient's discretion. The block grant is not a sole American phenomenon. In 1974, Great Britain introduced a block grant, the "Transport Supplementary Grant."

It is clear from this study's evaluation of four federal block grant programs: LEAA, CETA, CDBG, and Title XX, that there is no such thing as a "pure" block grant. This can be graphically illustrated. Illustration #1 represents the theoretically "pure" block grant and its relationship to other forms of federal financial assistance. However, Illustration #2, which includes the aforementioned federal block grant programs, represents the reality of this relationship. There are no clear lines of demarcation between block grants, and other forms of federal financial assistance, but rather an overlapping of them.

ILLUSTRATION #1

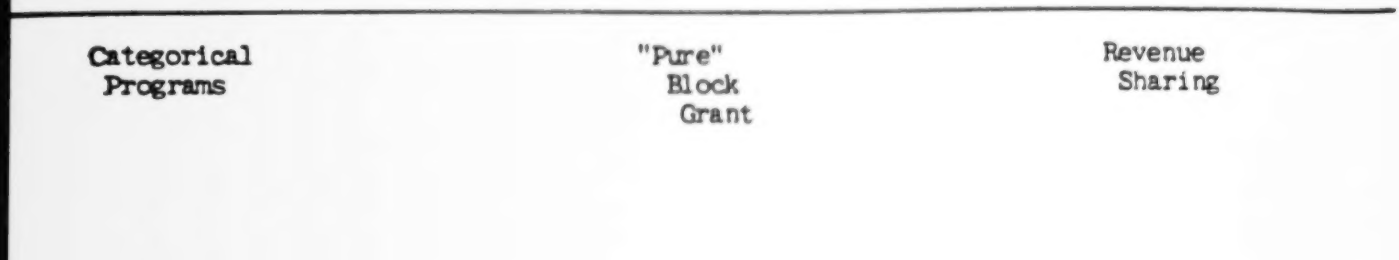
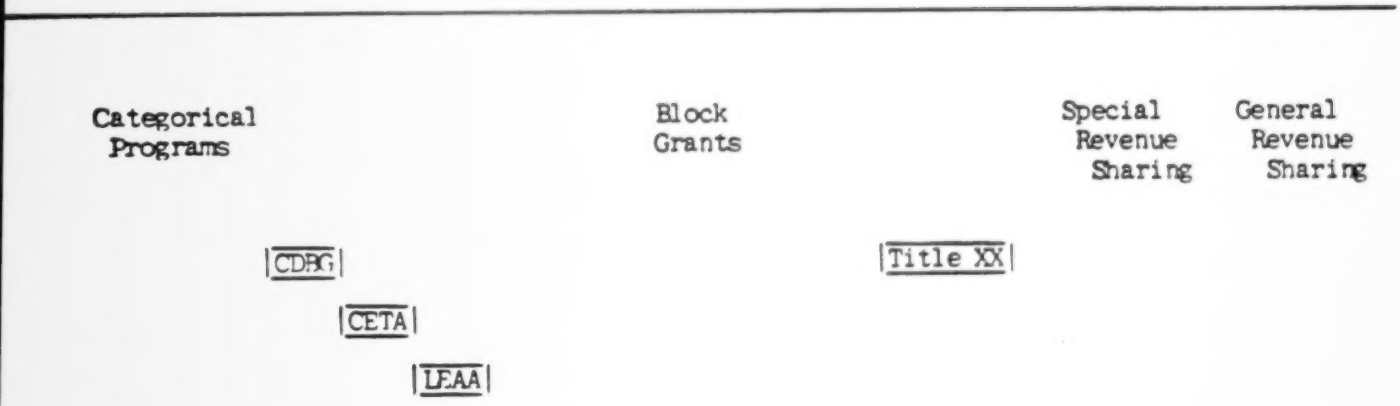


ILLUSTRATION #2



The four federal block grant programs evaluated in this study account for a relatively small proportion of total expenditures in their functional areas. As a result, their programmatic impact is difficult to discern. A cluster of categorical aids and state and locally supported efforts crowd the same functional areas. If the block grants are to tackle the problems they are designed to address, their levels of funding must increase from previous levels. If this cannot be accomplished, the basic objectives sought by Congress must be ranked in order of importance to avoid dilution of available resources. (87)

While block grants emphasize need factors over "grantsmanship," political compromises to secure this end are difficult to achieve. Significant shifts often occur in program participants and areas served during the transition from a categorical to a block grant mode of operation. This development needs careful consideration when evaluating the viability of the block grant. A major premise underlying block grants is that it assumes that need can be accurately measured and that the needy parties will be politically acceptable. Given the political realities, two approaches to achieve this end are possible. First, to reach the needy, the block grant might be surrounded by narrowly defined, project-based, nationally administered categoricals with their own funding authorization, provided that these categoricals do not fiscally overwhelm the block grant. Second, to reach the needy, a

discretionary fund could be established as a percentage of the total block grant appropriation administered by the head of the federal instrumentality operating the block grant. (88)

Politically, this may be impossible. One of the basic issues in a block grant program is whether the federal government or the states have primary responsibility to insure that the general or national purposes of the program are satisfied. There has been a strong tendency on the part of federal agencies to exercise the power to establish and maintain national standards under block grant programs. While Congress may limit the appearance of federal involvement in a block grant, it may also hold federal officials fully accountable for expenditures at the state level. (89) By setting up a block grant program, Congress has placed the federal administering agency in the role of "middleman" between Congress and various interest groups on one side and recipient jurisdictions on the other. Congress must provide national leadership and direction while allowing recipients maximum latitude in exercising discretion. This balance is difficult to achieve. Unless the federal administering agency takes proper steps to assure that the statute's intent is being carried out and that federal funds are being used effectively, pressures for recategorization will grow. Recipients must be assured of genuine flexibility in tailoring funds to their needs or disillusionment with decentralization could occur. A block grant does not abrogate federal responsibility but rather changes the nature and extent of agency involvement in program implementation. (90) (Emphasis supplied).

Care must be exercised in drafting block grant legislation. It must be neither too specific nor too broad in scope. If it is too specific, the block grant becomes a de facto categorical program, defeating the purpose of a block grant. If it is too broad, a "free-for-all" may result. The strongest and best-organized cause could take the lion's share of the funds available, regardless of that cause's merits. Smaller and weaker causes, however meritorious, could be left with whatever remains.

Finally, if block granting is to work, the perception of the roles of federal, state, and local government must change. The federal government must accept fifty "Sovereign" States which comprise one Federal Union. This is not to say that the Federal Supremacy Clause of the Constitution is inoperative. However, the several states must regain some of the "sovereignty" they surrendered to the federal government in receiving many forms of federal aid. In so doing, they must accept a greater degree of governmental responsibility. This responsibility extends to local governments which are creatures of the states. "American Federalism must face the question of dividing public powers between national, state, and local government in a fashion that legitimately protects the interest of all." (91)

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64. 42 U.S.C. Section 1397, (1980).

65. 45 CFR 228.51 (a)(b), (1979).

66. Mackie, P. J., "The New Grant System for Local Transport - The First Five Years," Public Administration, London, U.K.: Journal of the Royal Institute of Public Administration, Summer, 1980, pp. 187-206.

67. Harman, op cit., p. 141.

68. U.S. Office of Management and Budget (OMB), Managing Federal Assistance in the 1980's: Description of Existing Guidance Inventory of National Policy Requirements. Washington, D.C.: OMB, August, 1979, pp. 18-19.

69. Van Horn, op cit., p. 18.

70. OMB, op cit., p. 19.

71. ACIR (Report A-60), op cit,, p. 26.

72. Levy, Seymour. "Interview with LEAA Chicago Regional Official," Chicago, Illinois: March 16, 1981.

73. ACIR (Report A-60), op cit., p. 30.

74. Linster, Charles A. "Interview with OPCR Chicago Regional Official." Chicago, Illinois: March 18, 1981.

75. ACIR (Report A-60), op cit., p. 33.

76. Levy, Seymour and Linster, Charles A. "Interview with HUD Chicago Regional Officials." Chicago, Illinois: March 4, 1981.

77. Lynn, op cit., p. 145.

78. Ibid., p. 4.

79. Harman, op cit., p. 145.

80. Lovell, op cit., p. 438.

81. Ibid.

82. Harman, op cit., p. 146.

83. Ibid.

84. Rosenfeld, op cit., p. 449.

85. Ibid., p. 456.

86. Levitan and Zickler, op cit., pp. 194-195.

87. ACIR (Report A-60), op cit., p. 38.

88. Ibid.

89. Harman, op cit., p. 146.

90. ACIR (Report A-60), op cit., p. 39.

91. Terrell, Paul. "Beyond the Categories: Human Services Managers View the New Federal Aid," Public Administration Review. Washington, D.C.: American Society for Public Administration, January/February, 1980. p. 54.

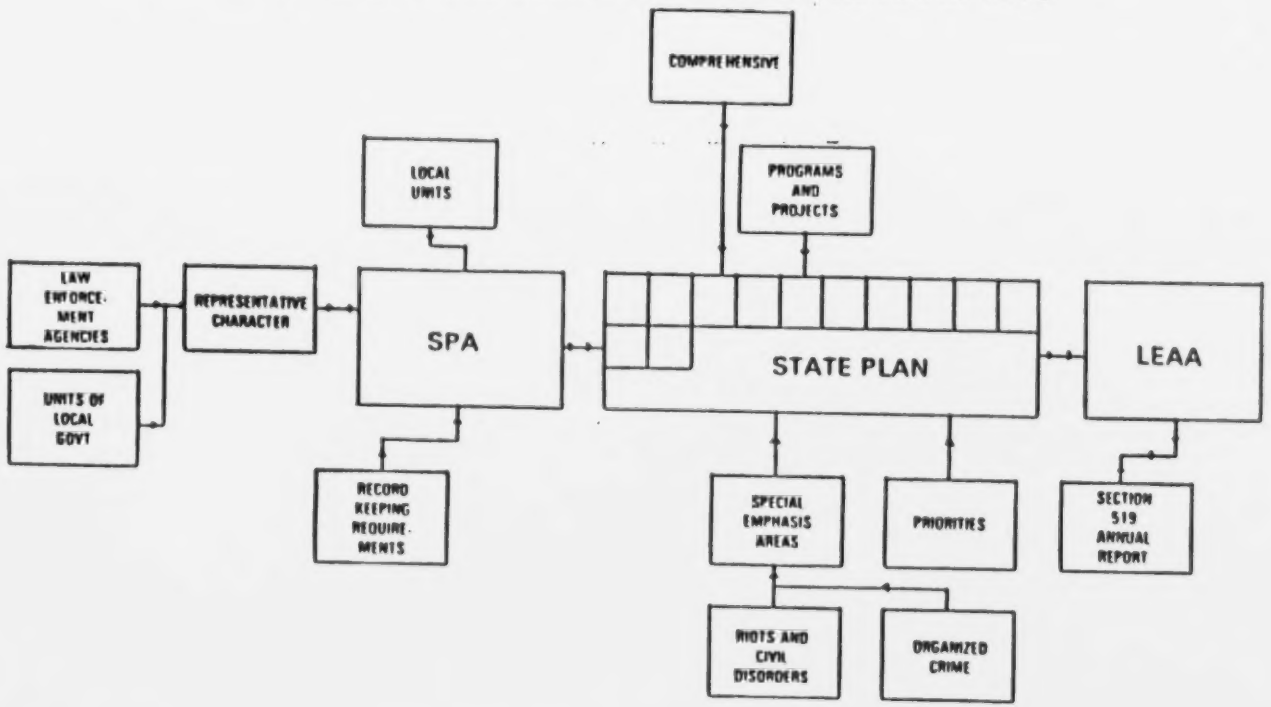
A T T A C H M E N T S

FIGURE I

Evolution of Statutory Requirements in Crime Control Block Grant Program 1968-1976

PART-A

Omnibus Crime Control and Safe Streets Act of 1968

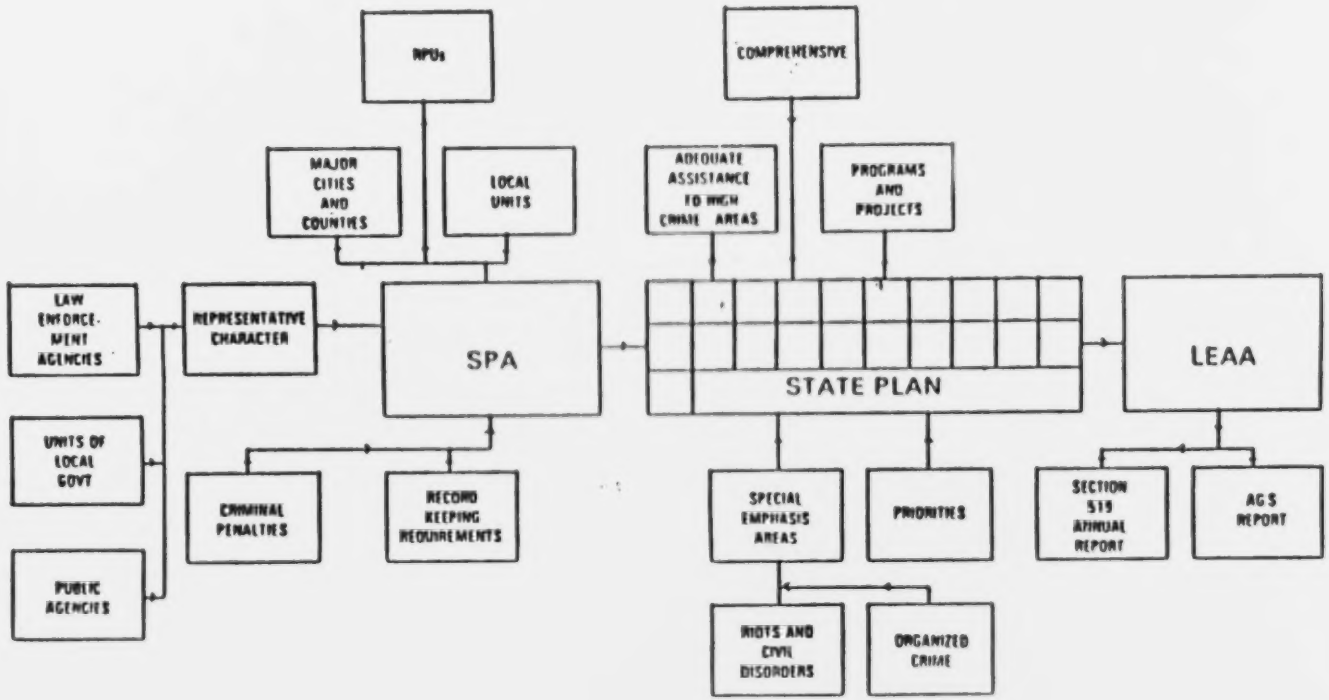


SOURCE: U.S. Department of Justice, Law Enforcement Assistance Administration, "Summary of the Statutory Development of the LEAA Block Grant Program," November 16, 1976 (mimeo)

Attachment #1

PART-B

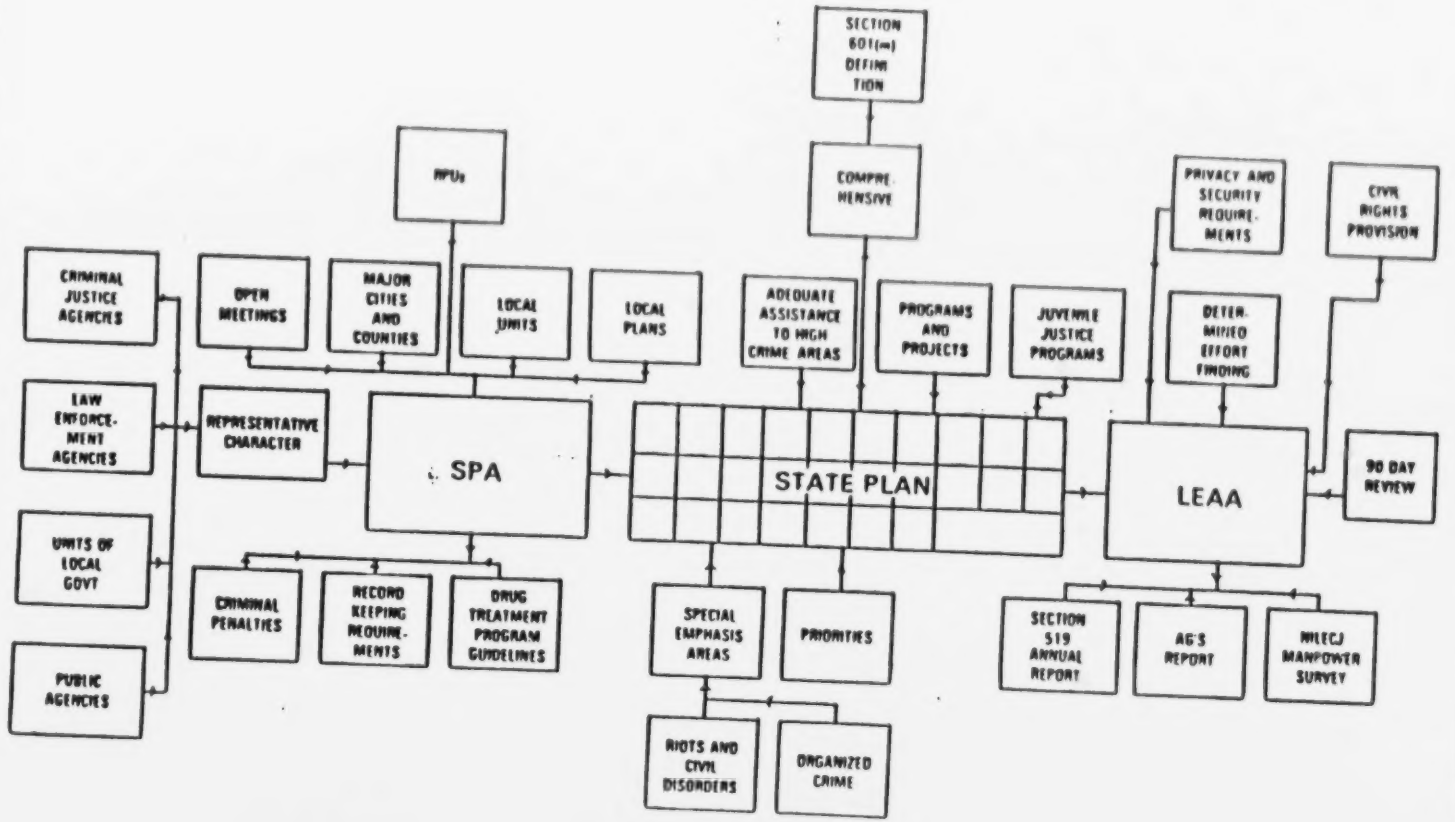
Omnibus Crime Control Act of 1970



Attachment #2

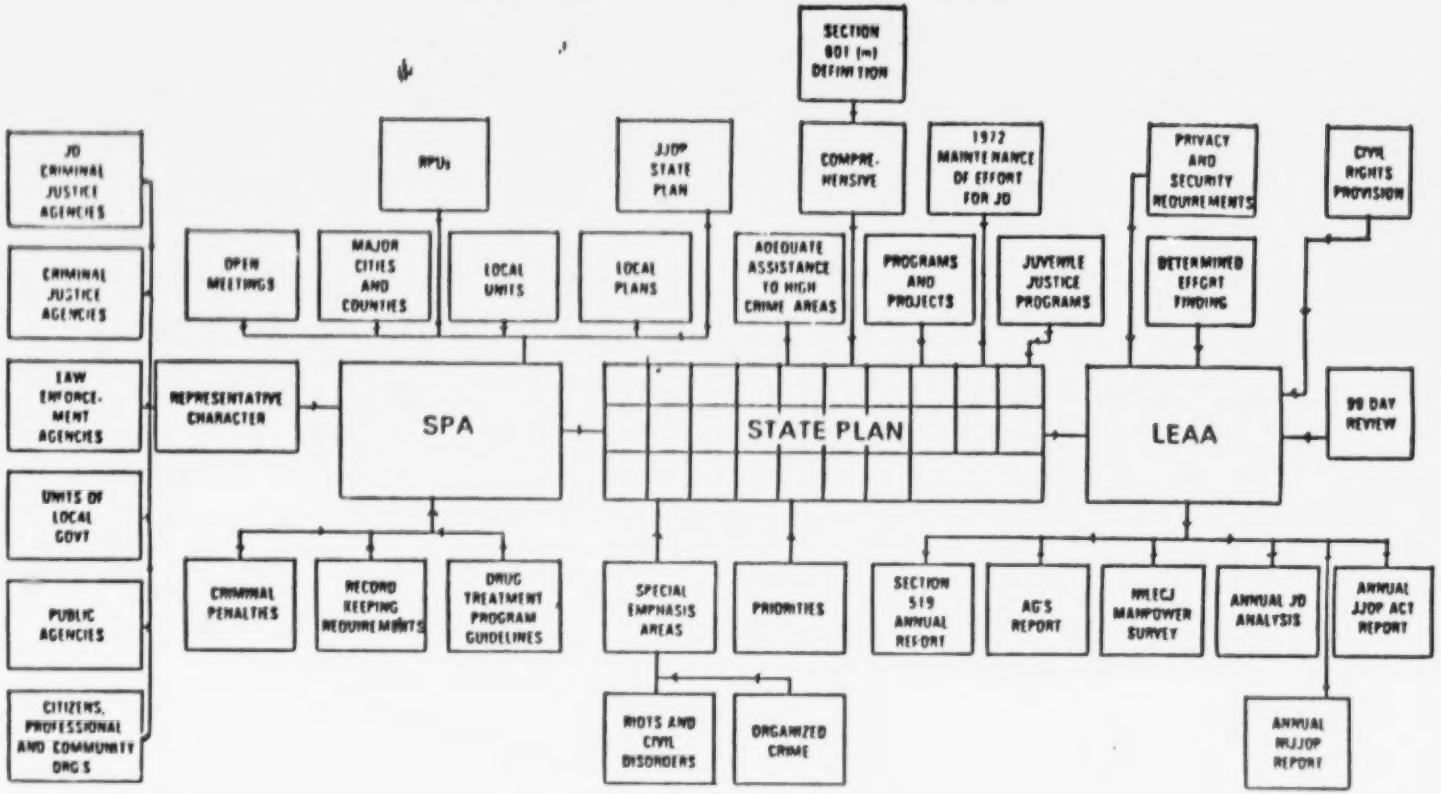
PART-C

Crime Control Act of 1973



PART-D

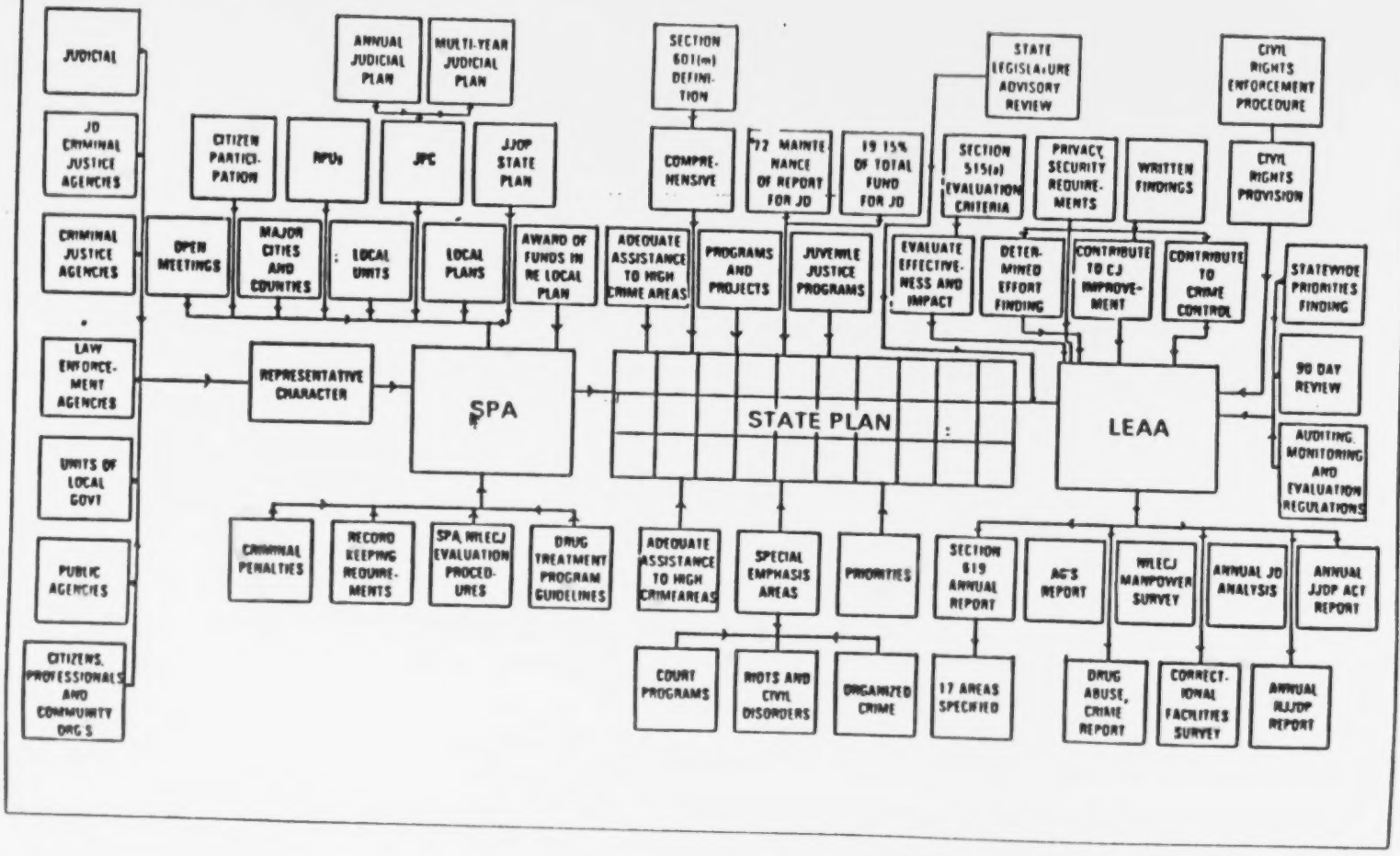
Juvenile Justice and Delinquency Prevention Act of 1974



Attachment #4

PART-E

Crime Control Act of 1976



Attachment #5

Attachment #6

Marvin E. Gavin, Regional Attorney
Region V

June 17, 1976

Ralph A. Church, Director
Office of Rehabilitation Services
Region V

Applicability of HEW regulations vis-a-vis HUD regulations in matters involving Federal funds being used to match Federal funds.

Several months ago, the Michigan Vocational Rehabilitation Services (VRS) proposed to use Federal monies granted under the Housing and Community Development Act of 1974 (PL 93-383) to match funds available for rehabilitation purposed by the authority of the Rehabilitation Act of 1973 (PL 93-112) as amended by the Rehabilitation Amendments Act of 1974 (PL 93-516). For authority, Michigan VRS relied upon the Federal Regulations for the former act, specifically 24 CFR 570.200 (a), (8), and (9). These regulations state, in part, that, "Grant assistance for a community development program may be used only for...(8) Provision of public services not otherwise available in areas...where such services are determined to be necessary...[for] improving the community's public services...[and] (9) Payment of the non-Federal share required in connection with a Federal grant-in-aid program undertaken as a part of the community development program pursuant to sec. 570.303 (b) provided that such payment shall be limited to activities otherwise eligible under this section."

Our regulation specifically, 40 FR 54713, November 25, 1975 (sec. 1361.80 (a)) which interprets the Rehabilitation Act of 1973 as amended states that, "in order to receive the Federal share of expenditures under the State Plan, expenditures from state or local funds under such plan equal to the state's share must be made. Such funds may not consist of Federal funds or of non-Federal funds that are applied to match other Federal funds except as may be specifically authorized by Congress...."

On the local level, all parties seem to agree that in this case, the use of Federal funds to match Federal funds was specifically authorized by Congress. This local consensus was due in part, to a legal interpretation in the 1960's given by HUD and accepted by the Rehabilitation Services Administration, a Federal agency of which we are a part. That legal interpretation stated that block grant monies become local funds and, therefore, could be used to match funds under the then existing authority for vocation rehabilitation programs. We are, however, unable to substantiate this interpretation.

ORS:CLINSTER:ejj:6/17/76

ORS CLINSTER 6/17
ORS TJWITHAM 6/17

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Attachment #7

NOV 5 1976

Ralph A. Church, Director
Office of Rehabilitation Services
SRS, Chicago, Illinois

GC:RA:V

OHD-10

Office of the General Counsel
Chicago, Illinois

SRS - Applicability of HEW Regulations vis-a-vis HUD Regulations Involving Federal Funds Being Used to Match Federal Funds

This is in response to your memorandum of June 17, 1976 with reference to the captioned matter, as supplemented by your memorandum of October 12, 1976.

Your memorandum presents the question of whether funds provided by HUD to a State agency pursuant to the Housing and Community Development Act of 1974 (P.L. 93-383) may be used to meet the requirements of 45 C.F.R. §1361.80 (as published in the Nov. 25, 1975 Federal Register at page 54713) with respect to the provision of State and local funds. We are of the opinion that such funds provided by HUD may be used to satisfy such requirements of 45 C.F.R. §1361.80 if the activities in question are part of a Community Development Program as required by Section 105(a)(9) thereof [42 U.S.C. §5305(a)(9)] and otherwise eligible as provided under 24 C.F.R. §570.200(a)(9). If any question may exist as to whether such activities are either part of a Community Development Program or otherwise eligible under 24 C.F.R. §570.200, it should be resolved by HUD, the agency administering P.L. 93-383.

The relevant language of 45 C.F.R. §1361.80 reads as follows:

> "Such funds (i.e., State or local funds) may not consist of Federal funds . . . except as may be specifically authorized by Congress."

421-615

Having given you all of the information we have on the matter, we respectfully request your legal opinion on two questions:

(1) Did Congress specifically authorize Federal monies granted under Housing and Community Development Act of 1974 to be used in lieu of state funds enabling Michigan VRS to fund local rehabilitation programs?

(2) When one Federal department's regulation's , specifically HUD's 25 CFR 570.200 (a), (8), and (9), conflicts with another Federal department's regulations, specifically HEW's 40 FR 54713, Nov. 25, 1975 (sec. 1361.80 (a)), in a matter in which the latter department has a greater interest, which department's regulations prevail?

Due to the fact that these two questions have remained unanswered for several months, your prompt attention in this matter would be greatly appreciated.

Sincerely yours,

Ralph A. Church, Director
Office of Rehabilitation Services

Congress has specifically authorized the use of funds provided by HUD under P.L. 93-383 in Section 105(a)(9) thereof, which reads as follows:

> "A Community Development Program assisted under this title may include only . . .
>
> (9) payment of the non-Federal share required in connection with a Federal grant-in-aid program undertaken as part of the Community Development Program . . ."

HUD has implemented such statutory language in 24 C.F.R. §570.200(a)(9) as follows:

> "Grant assistance for a Community Development Program may be used only for the following activities:
>
> * * *
>
> (9) Payment of the non-Federal share required in connection with a Federal grant-in-aid program undertaken as part of the community development program pursuant to §570.303(b), Provided, that such payment shall be limited to activities otherwise eligible under this section"

Thus, provided the conditions set forth in such HUD-administered statute and regulation are met, Community Development Program funds provided by HUD may be used to satisfy the non-Federal share requirements of 45 C.F.R. §1361.80.

In your supplemental memorandum of October 12, 1976, you forwarded a copy of a revision to 24 C.F.R. §570.200 and §570.201. These revisions appear to relate to changes in activities eligible under a Community Development Program. Nothing in such revisions would appear to require modification of this opinion.

Attachment #7

Page 3.
Ralph A.-Church, Dir.
ORS, SRS, Chicago, Illinois

Though this memorandum responds directly only to what we understand was intended in the first question on page 2 of your June 17, 1976 memorandum, it does not appear that the second question requires specific answers in view of the foregoing as we do not see any conflict between HUD regulations and HEW regulations in this matter.

Marvin E. Gavin
Regional Attorney

By
Robert C. Cordek
Assistant Regional Attorney

RCCordek:Pia

Attachment #8

OFFICE OF REHABILITATION SERVICES/OHD

Andrew E. Adams, Commissioner
RSA - Washington

November 15, 1976

Ralph A. Church, Director
ORS - Region V

Federal Funds Being Used to Match Federal Funds

Some months ago, the Michigan Vocational Rehabilitation Services (VRS) proposed to use Federal monies granted under the Housing and Community Development Act of 1974 (PL 93-383) as amended to match federal funds made available for VR purposes by the Rehabilitation Act of 1973 (PL 93-112) as amended.

Due to the fact that this proposition would enable Federal funds to match Federal funds, we asked HEW's Office of the General Counsel for Region V two questions:

1. Did Congress specifically authorize Federal monies granted under PL 93-383 as amended to be used in lieu of state matching funds to enable Michigan VRS to fund local rehabilitation programs funded by Federal monies granted under PL 93-112 as amended?

2. When one Federal department's regulations, specifically HUD's 25 CFR 570.200(a), (8) and (9), conflicts with another Federal department's regulations, specifically HEW's 45 CFR 1361.80(a), in a matter in which the latter department has a greater interest, which department's regulations prevail?

The proposition became more complex with the August 31, 1976 issuance of Information Memorandum RSA-IM-76-112 which informed us of the further amending of PL 93-383 by PL 94-375. Because PL 93-383 as amended now includes centers for the handicapped as a community development program assisted under the Act, Michigan VRS may choose to exploit these Federal funds.

Attachment #8

We are enclosing the legal opinion of our Regional Attorney dated November 5, 1976 to the questions we asked along with other pertinent information on the subject for your comment. As we stated in our June 17 memo to our Regional Attorney, "The use of Federal funds to match Federal funds... [in the 1960's] was due to a legal interpretation...given by HUD and accepted by the Rehabilitation Services Administration. That legal interpretation stated that block grant monies [under the old Model Cities Program] became local funds and, therefore, could be used to match funds under the then existing authority for vocational rehabilitation programs. We are, however, unable to substantiate this interpretation."

If HEW, through RSA, is again to accept HUD's stance that Federal funds can be used to match Federal funds, you as RSA Commissioner may choose to acknowledge the stance now so that we will be able to substantiate such an interpretation in the future. If you have reservations toward accepting such a stance, you may wish to seek another legal opinion. Failure to act in this matter, however, could very well result in a fait accompli engineered by Michigan VRS and HUD with potential national ramifications for RSA.

CAL:vmj

ORS CALinster
ORS TJWitham
ORS RAChurch